

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

MATTHEW McCARTHY

Plaintiff

C.A. NO. 18-679

v.

RHODE ISLAND CONVENTION  
CENTER AND DAVID KRAPF

Defendants

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446(a) and Local Rule Cv 81, the defendants, Rhode Island Convention Center and David Krapf ("Defendants"), hereby give notice of their removal of this action from the Superior Court of Rhode Island to the United States District Court for the District of Rhode Island. In support of this Notice, Defendants respectfully states as follows:

**BACKGROUND**

1. By Summons and Complaint, Plaintiff Matthew McCarthy ("McCarthy" or "Plaintiff") commenced a civil action against Defendants in Providence County Superior Court titled Matthew McCarthy v. Rhode Island Convention Center and David Krapf, C.A. No. PC2018-6833 (the "Superior Court Action"). True and correct copies of the Summons and Complaint that McCarthy caused to be served upon Defendants are attached as Exhibit A and constitute all processes, pleadings and orders served upon defendants in this action to the present date. 28 U.S.C. § 1446(a).
2. Defendants were served with the Summons and Complaint in the Superior Court action on November 15, 2018. The instant Notice of Removal is being filed within 30 days of the date on

which Defendants were served with the Summons and Complaint in the Superior Court Action. 28 U.S.C. § 1446(b).

3. Attached as Exhibit B is a copy of the Notice of Filing of Notice of Removal, the original of which is being filed with the Providence County Superior Court. 28 U.S.C. § 1446(d).

### **FEDERAL QUESTION OF JURISDICTION**

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the Complaint states a federal cause of action against Defendants under the Americans with Disabilities Act, 42 U.S.C. § 12102(1) and 42 U.S.C. § 12180, et seq. ("Federal Claims"). See Compl., at ¶¶ 38, 54-65. Thus, it is a civil action for which this Court has original "federal question" jurisdiction under 28 U.S.C. § 1311, in that the action arises under the Constitution, laws and treaties of the United States.

5. The Court has supplemental jurisdiction over a Plaintiff's state law claims for violations of R.I. Gen. Laws §§ 40-9-1 et seq., §§ 42-87-1 et seq., §§ 11-24-1, et seq., §§ 42-112-1, et seq. (Count II and associated relief under Count I) and his tort claims (Count III). 28 U.S.C. § 1367(a). Plaintiff's Federal Claims and state law claims arise in the same case or controversy because they emanate from plaintiff's allegations about his confrontations with Defendants relating to his dog and access to Defendants' premises. Therefore, this Court has supplemental jurisdiction over Plaintiff's state law claims. 28 U.S.C. § 1367(a).

### **REMOVAL TO THIS DISTRICT IS PROPER**

6. This Notice of Removal is being filed in the District of Rhode Island, the District Court of the United States for the district and division within which the Superior Court action is pending. 28 U.S.C. § 1446(a).

WHEREFORE, Defendants respectfully request that the Superior Court action be removed and herein proceed in the United States District Court for the District of Rhode Island.

DEFENDANTS,  
Rhode Island Convention Center and David  
Krapf

By Their Attorneys,

MORRISON MAHONEY LLP

*/s/ Douglas L Price*

*/s/ Amanda R. Prosek*

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**CERTIFICATION**

I hereby certify that this document filed through the EFC System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants as listed below this 14<sup>th</sup> day of December, 2018.

Paige Munro-Delotto, PhD, Esq.  
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Providence, RI 02903

*/s/ Amanda R. Prosek*

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